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An unending variety of topics

Friday, October 09, 2009

When does citizen's arrest become battery?

Here's a rough citizen's arrest caught on film. Plenty of action during the "more than 7-8 minutes" between when the photographer started shooting and the on-duty police arrived, despite a police station reportedly 2 blocks away. Some interesting comments from locals (apparently most of them police officers) here. Although freelance photographer Mike Anzaldi was there and I wasn't, I'm not completely without doubt about his claim that all the blows administered by the Asian fellow (including a kick to the stomach not pictured here) were justified to "calm him down". You can see some of the ambiguity between controlling a resisting arrestee and battery. (For more of the story, hear Anzaldi's commentary and see more pictures at the first link above). My kudos to Anzaldi for his great documentation of this event. Not so

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About Me

Nick Szabo

"A premier thinker about history, law and economics, and the lessons they have for security." -- Adam Shostack, Emergent Chaos

"Szabo comes out with these essays that leave me in awe." -- Brian Dunbar

"Reading material that is eclectic, challenging and endlessly fascinating." -- Sean McGrath, Propylon

"Like most blogs worth my attention, this blog is updated only infrequently. That is because the authors of blogs worth my attention only post when they have something to say that is true, relevant and not already known by their audience. Most of the human race does not have the skill to know when an idea has these three properties. The skill is particularly rare in the fields of politics and economics, which is why this blog is such a rare and valuable thing." -- Richard Hollerith

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much to the (presumably, since anonymous) cop bloggers with bad attitudes at the second link above, although they do raise one interesting issue, that the victim here did not end up pressing charges -- as a result, the alleged purse-snatcher was only charged with a misdemeanor. Victims often lack an incentive to press charges, and police often try to motivate victims to press charges by withholding stolen property they have recovered. If victims won't act out of a public spirit, or at least out of revenge, to help punish criminals, how can criminals be incapacitated and deterred? By contrast the volunteer citizen arrestors here seem to be acting in a public or at least gallant spirit. I'm not going to take it on faith, as the anonymous bloggers apparently do, that the police have great incentives here either, rather that this does seem to raise a public goods issue, to which police forces are a very imperfect, and in this case quite belated, solution. (AFAIK, BTW, no charges have been filed against any of the arrestors in this case, and I doubt any will be -- they seem to be near but not over the line in using reasonable force to control a resisting arrestee, and even if they were a bit over the line police sympathize with their situation and would be loathe to arrest, and even if arrested and prosecuted a jury would probably let them off).

Incidentally, if it had been police officers making the arrest here, those bites would probably constitute battery on a police officer. But there seems to be no analogous protection for citizens making an arrest -- we should consider adding such protection where the arrest is legitimate. (Often, BTW, the burden of proof on citizen arrest is much higher than for police -- in many states the arrestor must have actually seen the crime being committed, a greater burden than the typical police officer's burden of probable cause. I am skeptical of this discrepancy, too).

I previously posted on another case with a video showing a store owner shooting a robber, the first time in proper self-defense (or defense of others) under a castle law, but the second time apparently over the line between such proper force and murder.

Posted by Nick Szabo at 12:12 AM

1 comment:

nick said...

More great comments here.

4:08 PM

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